IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 1070 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANGANLAL SAVJI

Versus

PRABHUDAS VALLABHDAS

Appearance:

MR AJ SHASTRI for Petitioner

MR MANOJ N POPAT for Respondent No. 1

MR AD OZA, P.P. for Respondent No.2-State.

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 13/10/2000

ORAL JUDGEMENT

The respondent No.1-original complainant filed Criminal case No.755 of 1985 against the present

petitioner-original accused No.2 and one Rambhaben Keshvaji before the learned J.M.F.C., Junagadh, under Section 24 of the Bombay Rent Act and also under Section 423 of the Indian Penal Code and at the end of trial, learned 2nd Joint Judicial Magistrate First Class, Junagadh, vide his judgment and order dated 16th March, 1988, ordered the petitioner to undergo rigorous imprisonment of one month and fine of Rs.100/- and in default further rigorous imprisonment of 10 days, for the offence under Section 24 of the Bombay Rent Act. The learned 2nd Joint J.M.F.C. has also ordered the petitioner to undergo rigorous imprisonment of one month and fine of Rs.100/and in default further rigorous imprisonment of 10 days for the offence under Section 423 of the Indian Penal Code.

2. Against the said judgment and order, the petitioner preferred Criminal Appeal No.30 of 1988 before the learned Sessions Judge, Junagadh. The learned Addl. Sessions Judge, Junagadh, vide his order dated 16th August, 1991, partly allowed the said appeal and set aside the order of conviction passed by the learned 2nd Joint J.M.F.C., Junagadh, under Section 423 of the Indian Penal Code and confirmed the order of conviction passed by the learned 2nd Joint J.M.F.C., Junagadh, under Section 24 of the Bombay Rent Act.

3. Against the judgment and order passed by the learned Addl. Sessions Judge, Junagadh, in Criminal Appeal No. 30 of 1988 more particularly against the conviction under Section 24 of the Bombay Rent Act, the petitioner has preferred this Criminal Revision Application.

4. Heard learned counsel appearing for the respective parties. I have also gone through the affidavit filed by the petitioner which is annexed to this petition at page No.18 and 19 wherein he has specifically mentioned that he is an aged person and recently he was admitted in the hospital for his ailments. He has further stated on oath that he has been convicted only under Section 24 of the Bombay Rent Act in the year 1985 i.e. prior to 15 years. He has further stated that the respondent-tenant has vacated the premises and he went in his own bungalow and, therefore, the petitioner has requested that in changing circumstances mainly on the ground that the respondent-tenant has already constructed his own bungalow and he has vacated the premises since long and he is aged person and is not keeping good health since long, some mercy may be shown towards him.

5. On the other hand, learned advocate for the respondent-tenant Mr. Popat has also admitted that the respondent-tenant has constructed his own bungalow and he is residing there with his family since long and the relation between the landlord and tenant are not in existence. Over and above, looking to the nature of the offence and mental agony sufferred by the petitioner for a period of 15 years for which has has to travel from J.M.F.C. Court up to High Court and also keeping in mind health and age of the petitioner and changing circumstance that the respondent-tenant has vacated the premises and he has constructed his own bungalow and residing there, this Criminal Revision Application is required to be allowed with certain modifications.

6. As a result of the foregoing discussion, this Criminal Revision Application is partly allowed. The judgment and order dated 16th August, 1991, passed by the learned Addl. Sessions Judge, Junagadh, in Criminal Appeal No.30/88 is hereby quashed to the extent of awarding sentence of one month. In view of the facts and circumstances of the case and to meet the ends of justice, the petitioner is directed to pay Rs.1,000/towards cost.
Rule made absolute to the aforesaid extent.

(R.P.Dholakia, J.)

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